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99TH CONGRESS
2d Session

HOUSE OF REPRESENTATIVES

REPT. 99-638
Part 2

ORIGINAL

COMPLETED

ANTI-APARTHEID ACT OF 1986

JUNE 16, 1986.—Ordered to be printed

Mr. ROSTENKOWSKI, from the Committee on Ways and Means, submitted the following

REPORT

together with

DISSENTING AND SUPPLEMENTAL VIEWS

[To accompany H.R. 4868 which on May 21, 1986, was referred jointly to the Committee on Foreign Affairs, the Committee on Banking, Finance and Urban Affairs, the Committee on Ways and Means, and the Committee on Public Works and Transportation]

[Including cost estimate of the Congressional Budget Office]

The Committee on Ways and Means, to whom was referred the bill (H.R. 4868) to prohibit loans to, other investments in, and certain other activities with respect to, South Africa, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment (stated in terms of the page and line numbers of the introduced bill) is as follows:

Page 4, strike out lines 1 through 5, inclusive, and insert the following:

SEC. 3. BAN ON THE IMPORTATION OF CERTAIN PRODUCTS OF SOUTH AFRICA AND NAMIBIA.

(a) PRODUCTS OF SOUTH AFRICA.—

(1) URANIUM OXIDE.—Subpart C of part 2 of schedule 4 of the Tariff Schedules of the United States (19 U.S.C. 1202) is amended—

(A) by adding immediately after headnote 1 the following new headnote:

"2. Until the day on which the Anti-Apartheid Act of 1986 is terminated, the entry, or withdrawal from ware-

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house for consumption, of uranium oxide provided for in item 422.50 which is the product of the Republic of South Africa is prohibited."; and

(B) by striking out "Subpart C headnote:" and inserting in lieu thereof "Subpart C headnotes:".

(2) COAL.—Subpart J of part 1 of schedule 5 of such Schedules is amended by inserting immediately before item 521.11 the following:

"Subpart J headnote:

"1. Until the day on which the Anti-Apartheid Act pf 1986 is terminated, the entry, or withdrawal from warehouse for consumption, of coal provided for in item 521.31 which is the product of the Republic of South Africa is prohibited.".

(3) URANIUM ORE AND STEEL PRODUCTS.—The headnotes to schedule 6 of such Schedules are amended by inserting at the end thereof the following new headnote:

"3. Until the day on which the Anti-Apartheid Act of 1986 is terminated, the entry, or withdrawal from warehouse for consumption, of uranium ore provided for in item 601.57, and of any steel product, which is the product of the Republic of South Africa is prohibited. For purposes of this headnote, the term 'steel prouct' means an article of steel provided for in any of the following items:
606.67; 606.69; 606.79 through 610.52, inclusive; 642.02; 642.08; 642.11; 642.16, inclusive; 642.35; 642.97, inclusive; 646.25; 646.26; 646.30; 652.94 through 652.97, inclusive; 653.00; 688.25; 690.25; 690.30.".

(b) PRODUCTS OF NAMIBIA.—

(1) PETROLEUM AND NATURAL GAS.—The headnotes to part 10 of schedule 4 of such Schedules are amended by inserting at the end thereof the following:

"5. Until the day on which the prohibition in section 7(a) of the Anti-Apartheid Act of 1986 is terminated, the entry, or withdrawal from warehouse for consumtion, of petroleum and natural gas which is the product of Namibia is prohibited.".

(2) NONMETALLIC MINERALS.—Part 1 of schedule 5 of such Schedules is amended by inserting before subpart A the following:

"Part 1 headnote:

"1. Until the day on which the prohibition in section 7(a) of the Anti-Apartheid Act of 1986 is terminated, the entry, or withdrawal from warehouse for consumption, of any nonmetallic mineral (not advanced in condition or value from its natural state) which is provided for in this part and is the product of Namibia is prohibited.".

(3) METAL BEARING ORES AND MATERIALS.—The headnotes to part 1 of schedule 6 of such Schedules are amended by adding at the end thereof the following:

"6. Until the day on which the prohibition in section 7(a) of the Anti-Apartheid Act of 1986 is terminated, the entry, or withdrawal from warehouse for consumption, of any

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metal-bearing ore or other metal-bearing material which is provided for in this part and is the product of Namibia is prohibited.".

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) apply with respect to articles entered, or withdrawn from warehouse for consumption, on or after the 15th day after the date of the enactment of this Act.

BACKGROUND AND PURPOSE

H.R. 4868, the "Anti-Apartheid Act of 1986," was introduced on May 21, 1986. The bill was referred to the Committees on Foreign Affairs, Banking, Finance and Urban Affairs, Ways and Means, and Public Works and Transportation.

Introduction of the bill and its rapid consideration by the committees of jurisdiction in anticipation of early House action reflect the sense of urgency about the deteriorating situation in South Africa and about South Africa's recent regional aggression. In the last 20 months over 1,500 people have been killed and over 36,000 arrested in growing anti-apartheid protests.

The purpose of H.R. 4868 is to provide positive incentives for political negotiations leading to the peaceful dismantlement of apartheid. As economic pressures on the South African government for change, the bill includes bans on a new investment and new loans, a prohibition on contributions to the development of energy sources and, if a political solution to apartheid in not reached within one year, a ban on computer exports to South Africa and disinvestment from the computer industry. As a further economic sanction, the bill would prohibit imports of coal, uranium ore and oxide, and steel from South Africa. As amended by the Committee on Foreign Affairs, the bill would also prohibit U.S. exploration, extraction, processing, or import of natural resources in Namibia as a clear indication of U.S. strong objection to South Africa's illegal occupation and repressive apartheid policies in Namibia.

SUMMARY OF H.R. 4868, "ANTI-APARTHEID ACT OF 1968," AS REPORTED

H.R. 4868, as amended and ordered reported by the Committee on Ways and Means, contains the following provisions:

SECTION 1. SHORT TITLE

Section 1 cites the Act as the "Anti-Apartheid Act of 1986."

SECTION. 2. PROHIBITION ON LOANS TO, NEW INVESTMENT IN, AND OTHER ACTIVITIES INVOLVING SOUTH AFRICA

Section 2 prohibits any U.S. person from: (1) making any new loans, extending credit, or making any other new investment in South Africa; (2) contributing technology for research, development, or production of new South African energy sources; or (3) making any deposits in South African banks. Also, no South African bank may be established or operate in the United States.

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SECTION 3. BAN ON THE IMPORTATION OF CERTAIN PRODUCTS OF SOUTH AFRICA AND NAMIBIA

Section 3 amends the Tariff Schedules of the United States to prohibit imports of coal, uranium ore and oxide, and steel from South Africa and imports of natural resources (oil, gas, and minerials) from Namibia, effective 15 days after enactment.

SECTION 4. CONDITIONAL DIVESTITURE FROM COMPUTER INDUSTRY

Section 4 prohibits any U.S. person from making or holding any investment in a South African computer enterprise and prohibits U.S. exports of computers and computer software and services to South Africa, unless political prisoners are freed and political negotiations are entered into or the apartheid system is dismantled within 12 months.

SECTION 5. ASSISTANCE FOR SOUTH AFRICA

Section 5 authorizes up to $25 million annually for foreign aid to South Africa to be used for refugee education and community development projects.

SECTION 6. PROHIBITION ON LANDING RIGHTS OF SOUTH AFRICAN AIRCRAFT

Section 6 requires the Secretary of Transportation to prohibit the take off and landing of any South African aircraft.

SECTION 7. REGULATORY AUTHORITY

Section 7 requires the President to issue regulations, licenses, and orders necessary to carry out the Act within 90 days after enactment.

SECTION 8. ENFORCEMENT AND PENALTIES

Section 8 contains various enforcement and penalty provisions. Subsection (e) applies all provisions of customs law relating to seizure, forfeiture, and condemnation of articles, their disposition or proceeds from sale, and the remission or mitigation of such forfeitures to the seizure and forfeiture of aircraft in violation of section 6, except that the Secretary of Transportation rather than the Department of the Treasury would exercise all powers, rights, and duties under the customs laws for this purpose.

SECTION 9. NEGOTIATIONS; REPORTS TO CONGRESS

Section 9 requires the President to attempt to persuade other governments to adopt similar restrictions against South Africa and to report annually to the Congress on the status of such negotiations.

SECTION 10. REPORT TO CONGRESS WITH RESPECT TO DIVESTITURE; TERMINATION OF PROVISIONS OF ACT

Section 10 of H.R. 4868, as introduced, requires the President to report to Congress between May 31 and June 30, 1988, on whether

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the Goverment of South Africa has met the conditions of the Act. At any time after making that report the President may submit a determination to Congress that the conditions have been met. upon enactment of a joint resolution approving the President's determination, the provisions of the Act terminate.

Under section 10, as amended and reported by the Committee on Foreign Affairs, the President may submit a determination to the Congress at any time after date of enactment that the conditions of the Act are met (rather than only after June 1988). Upon enactment by Congress of a joint resolution approving the President's determination, the provisions of the Act terminate.

The conditions of the Act are that the Government of South Africa (1) has freed Nelson Mandela and all political prisoners and has entered into good faith negotiations with truly representative leaders of the black majority for a new political system; or (2) has totally dismantled the apartheid system.

SECTION 11. DEFINITIONS

Section 11 contains definitions of various terms used in the Act.

SECTION 12. APPLICABILITY TO EVASIONS OF ACT

Section 12. Applies the Act to any person who undertakes or causes to be undertaken any transaction or activity with the intent to evade the Act or its regulations.

SECTION 13. CONSTRUCTION OF ACT

Section 13 states that nothing in the Act shall be construed as constituting U.S. recognition of the "homelands" in South Africa.

COMMITTEE ACTION

While H.R. 4868 was jointly referred to the Committee on Ways and Means, the Committee considered the provisions within its direct jurisdiction, in particular the prohibitions on imports.

H.R. 1135, introduced by Mr. Rangel on February 19, 1985, amended the Tariff Schedules of the United States to prohibit the importation of coal and uranium from South Africa and Namibia. The Subcommittee on Trade solicited public comments on the bill in a press release issued on May 16, 1985, as part of its consideration of miscellaneous tariff and trade bills, and in March 1985 requested agency views from the U.S. Trade Representative, the Departments of Commerce, Treasury (including the U.S. Customs Service), State Agriculture, and Labor.

No public comments were received on the bill. The Departments of State and Treasury reponded in May and June 1985 on behalf of the Administration against enactment of the bill.

The schedule for early House action on H.R. 4868, introduced on May 21, 1986, did not permit further consideration by the Subcommittee on Trade. The Committee on Ways and Means met in markup session on June 11, 1986, and ordered H.R. 4868 favorably reported with one amendment by voice vote.

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SECTION-BY-SECTION ANALYSIS, JUSTIFICATION, AND COMPARISON WITH PRESENT LAW

The only provisions of H.R. 4868 as introduced, within the jurisdiction of the Committee on Ways and Means were the prohibition of certain imports from South Africa under section 3 and the application of the seizure and forfeiture provisions of existing customs laws to the seizure and forfeiture of South African aircraft prohibited landing rights under section 8. In addition, the Committee considered the issues raised by the new section 7 of H.R. 4868 as amended and reported by the Committee on Foreign Affairs, as it pertains to imports from Namibia. This report relates only to section 3 of the bill, as amended by the Committee.

SECTION 3. BAN ON IMPORTATION OF CERTAIN PRODUCTS OF SOUTH AFRICA AND NAMIBIA

Present law

South Africa and Namibia receive nondiscriminatory (most-favored-nation) status under present trade laws and, therefore, column 1 MFN duty treatment under the Tariff Schedules of the United States (TSUS).

U.S. imports of coal (including coke) and uranium ore and oxide enter duty-free.

Duties on imports of steel mill products range between free and 11.5 percent ad valorem plus additional duties if the particular product content includes metals. Imports of stainless steel products are currently subject to additional duties and quotas under orderly marketing agreements are temporary import releif action. Imports of steel mill products are also subject to five-year export restraint agreements negotiated with individual supplier countries. The U.S.-South African Arrangement on Trade in Certain Steel Products applies from October 1, 1984, until September 30, 1989. Under that Arrangement, total imports from South Africa in ten categories of steel mill products are limited to 0.38 percent of the total U.S. market, representing a reduction from an 0.6 percent market share in 1984.

Imports of petroleum are subject to duties of 0.25 cents or 0.125 cents per gallon; natural gas enters duty-free. Imports of many types of minerals enter duty-free; a range of ad valorem and specific duties apply to various other minerals.

Explanation of provision

Section 3 of H.R. 4868, as introduced, imposes a ban on imports of coal, uranium ore and oxide, and steel from South Africa as a free-standing provision, notwithstanding any other provision of law. The Committee on Foreign Affairs amended the bill to add a new section 7, which includes a prohibition on imports of natural resources (defined as oil, gas, and minerals) from Namiba. The President would issue orders and regulations to administer these provisions.

The Committee on Ways and Means amended section 3 of the bill to prohibit imports of coal, uranium ore and oxide, and steel from South Africa and natural resources from Namibia as reported by

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the Committee on Foreign Affairs, but as amendments to the headnotes of the Tariff Schedules of the United States. This formulation is consistent with the usual practice of specifying various types of import restrictions in the Tariff Schedules in order to ensure appropriate administration by the U.S. Customs Service at the various ports of entry. Congress has traditionally specified in the legislation itself the products to be subject to import restrictions administered by the Customs Service rather than delegating the power to the President to identify product coverage through regulations. The amendment is similar to H.R. 1135, introduced by Mr. Rangel on February 19, 1985, with changes developed with the assistance of commodity specialists at the International Trade Commission to conform to the product coverage of H.R. 4868, as amended.

The amendment would delay the effective date of the import prohibitions until 15 days after the date of enactment of the Act, consistent with the notice period generally provided under other legislated changes in import treatment. The import prohibition with South Africa would terminate upon termination of the Anti-Apartheid Act, that is upon enactment of a joint resolution approving a Presidential determination that either political prisoners have been freed and negotiations begun for a new political system or that the apartheid system is totally dismantled. The ban on imports of natural resources from Namibia would apply until the prohibition in section 7(a) of the Act, as amended by the Committee on Foreign Affairs, is terminated, that is Namibia has achieved internationally-recognized independence.

The United States considers Namibia to be a non-self-governing territory under the illegal occupation of South Africa. In order to administer the prohibition on certain imports from Namibia, the Committee expects the U.S. Customs Service to use its existing authorities under the Customs laws to require the entry documentation necessary to determine whether imports subject to the prohibition originate in Namibia.

Reasons for change

The import prohibitions are considered to be an important element of the overall package of economic sanctions included in H.R. 4868 to exert pressure on the Government of South Africa to eliminate the apartheid system and its illegal occupation of Namibia. The particular products subject to the import ban were selected because they are important to the economies of South Africa and Namibia and are major components of their overall foreign exchange earnings, and are not materials which may be needed for U.S. national security. A prohibition of imports from South Africa and Namibia of the particular products covered will not have an adverse impact on the United States economy or on supplies of strategic materials, given the existence of adequate domestic production or other more important foreign sources of supply.

U.S. imports from South Africa have totalled from $2.0 to $2.5 billion per year during the 1981-1985 period. Coal, uranium, and steel are among the leading and growing items imported from South Africa., The import prohibition imposed under section 3 of the bill as amended would cover about $250 million of total U.S. imports from South Africa, based on 1985 trade.

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U.S. imports from Namibia totalled about $12.4 million in 1985. The prohibition on imports of natural resources from Namibia would affect about $5 million, based on 1985 trade, primarily petroleum.

Vote of the Committee in Reporting the Bill

In compliance with clause 2(l)(2)(B) of rule XI of the Rules of the House of Representatives, the following statement is made relative to the vote of the Committee in reporting the bill. H.R. 4868 was ordered favorably reported by the Committee on Ways and Means with an amendment by voice vote.

Oversight Findings

In compliance with clause 2(l)(3)(A) of rule XI of the Rules of the House of Representatives relating to oversight findings, the Committee has concluded that the deteriorating situation in South Africa and its government's policies toward Namibia warrant the use of import restrictions on certain products as a form of economic pressure to eliminate the apartheid system.

With respect to clause 2(l)(3)(D) of rule XI of the Rules of the House of Representatives, no oversight findings or recommendations have been submitted to the Committee by the Committee on Government Operations with respect to the subject matter contained in this bill.

Budgetary Authority and Cost Estimates, Including Estimates of the Congressional Budget Office

In compliance with clause 7(a) of rule XIII and clause 2(l)(3)(B) of rule XI of the Rules of the House of Representatives, the Committee states that H.R. 4868 does not provide any new budgetary authority or any new or increased tax expenditures. The Committee agrees with the cost estimate prepared by the Congressional Budget Office that the import prohibitions under section 3 of H.R. 4868, as amended, could result in a customs revenue loss of about $5 million annually beginning in fiscal year 1987, unless there are substitute imports from other sources.

In compliance with clause 7(a) of rule XIII and clause 2(l)(3)(B) and (C) of rule XI of the Rules of the House of Representatives, the Committee provides below information furnished by the Congressional Budget Office on H.R. 4868 and required to be included herein:

U.S. Congress,
Congressional Budget Office,
Washington, DC, June 13, 1986.

Hon. Dan Rostenkowski,
Chairman, Committee on Ways and Means,
U.S. House of Representatives, Washington, DC.

Dear Mr. Chairman: The Congressional Budget Office has reviewed H.R. 4868, the Anti-Apartheid Act of 1986, as ordered reported by the House Committee on Ways and Means on June 11, 1986. The bill imposes new economic sanctions against South Africa and earmarks $25 million from funds provided under the

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Foreign Assistance Act of 1961 and the Migration and Refugee Assistance Act of 1962 for education and community development in South Africa.

Specifically, the bill prohibits new investment in South Africa, bans new loans to the South African government, and prohibits South African banks from operating in the United States. The bill also bans the importation of uranium, coal, and steel from South Africa and denies landing rights to South African aircrafts. If the apartheid system is not dismantled 18 months after enactment of this legislation, the bill requires the computer industry to disinvest.

Enactment of this legislation could lower United States revenues from customs duties. Section 3 bans the importation of certain uranium, coal, and steel products from South Africa. Based on information obtained from the International Trade Commission, import restrictions on South African products could result in lower customs duties collections of approximately $5 million annually in fiscal years 1987–1991. However, this loss in revenue may be negated if imports from other countries are substituted for banned products from South Africa. Section 7 bans specific natural resource imports from Namibia. CBO estimates that this provision would have insignificant effects on customs duties revenues.

The macroeconomic effects on the United States of the importation bans would be negligible. Some economic losses might occur if South Africa retaliates and bans the purchase of some products from the United States, or bans the sale of strategic metals that are difficult to find elsewhere. These specific losses, however, cannot be estimated.

Other sections of the bill will have no significant cost to the federal government. The cost of sanctions against South Africa to state and local governments remains controversial. Government pension funds are not required to divest in South Africa, but new investment is prohibited. This restriction limits investment opportunities and complicates portfolio management. Proponents of the sanctions argue that these effects would be insignificant. Some states and cities, including Massachusets, Connecticut, and New York City, have already passed legislation limiting pension fund investment in South Africa.

With best wishes,

Sincerely,

RUDOLPH G. PENNER, *Director.*

INFLATIONARY IMPACT STATEMENT

With respect to clause 2(l)(4) of rule XI of the Rules of the House of Representatives, the Committee states that the import prohibitions imposed by H.R. 4868, which would have a very modest revenue loss, would not have an inflationary impact on prices and costs in the operation of the general economy.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omit-

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ted is enclosed in black brackets, new matter is printed in italic, existing law is which no change is proposed in shown in roman):

TARIFF SCHEDULES OF THE UNITED STATES

* * * * * * *

SCHEDULE 4.—CHEMICALS AND RELATED PRODUCTS

* * * * * * *

Item	Articles	Rates of Duty		
		1	Special	2
	PART 1.—BENZENOID CHEMICALS AND PRODUCTS			
	* * * *	*	* *	*
	PART 2.—CHEMICAL ELEMENTS, INORGANIC AND ORGANIC COMPOUNDS, AND MIXTURES			
	* * * *	*	* *	*
	Subpart A.—Chemical Elements			
	* * * *	*	* *	*
	Subpart C.—Inorganic Chemical Compounds			
	Subpart C [headnote] *headnotes:* 1. This subpart does not include any organic compounds. For the purposes of this subpart, inorganic compounds containing only one kind of cation are classifiable according to the cation constituent as indicated in the alphabetical listing set forth in this subpart; and inorganic compounds containing two or more different kinds of cations are classifiable according to the cation constituent thereof first named in the alphabetical listing in this subpart. Inorganic compounds, having no cations or none of the cation constituents of which are named in this subpart, are covered by the provisions for other inorganic compounds (item 423.00). *2. Until the day on which the Anti-Apartheid Act of 1986 is terminated, the entry, or withdrawal from warehouse for consumption, of uranium oxide provided for in item 422.50 which is the product of the Republic of South Africa is prohibited.*			
	* * * *	*	* *	*
	PART 10.—PETROLEUM, NATURAL GAS, AND PRODUCTS DERIVED THEREFROM			
	Part 10 headnotes: 1. * * *			
	* * * *	*	* *	*
	5. Until the day on which the prohibition in section 7(a) of the Anti-Apartheid Act of 1986 is terminated, the entry, or withdrawal from warehouse for consumption, of petroleum and natural gas which is the product of Namibia is prohibited.			
	* * * *	*	* *	*

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SCHEDULE 5.—NONMETALLIC MINERALS AND PRODUCTS

Item	Articles	Rates of Duty		
		1	Special	2
	PART 1.—NONMETALIC MINERALS AND PRODUCTS, EXCEPT CERAMIC PRODUCTS AND GLASS AND GLASS PRODUCTS			
	Part 1 headnote: *1. Until the day on which the prohibition in section 7(a) of the Anti-Apartheid Act of 1986 is terminated, the entry, or withdrawal from warehouse for consumption, of any nonmetallic mineral (not advanced in condition or value from its natural state) which is provided for in this part and is the product of Namibia is prohibited.*			
	Subpart A.—Hydraulic Cement; Concrete; Concrete Products			
•	• • • •	•	•	•
	Subpart J.—Miscellaneous Nonmetallic Minerals and Products			
	Subpart J headnote: *1. Until the day on which the Anti-Apartheid Act of 1986 is terminated, the entry, or withdrawal from warehouse for consumption, of coal provided for in item 521.31 which is the product of the Republic of South Africa is prohibited.*			
•	• • • •	•	•	•

SCHEDULE 6.—METALS AND METAL PRODUCTS

Item	Articles	Rates of Duty		
		1	Special	2
	Schedule 6 headnotes: 1. * * *			
•	• • • •	•	•	•
	3. Until the day on which the Anti-Apartheid Act of 1986 is terminated, the entry, or withdrawal from warehouse for consumption, of uranium ore provided for in item 601.57, and of any steel product, which is the product of the Republic of South Africa is prohibited. For purposes of this headnote, the term "steel product" means an article of steel provided for in any of the following items: *606.67; 606.69; 606.79 through 610.52, inclusive; 642.02; 642.08; 642.11 through 642.16, inclusive; 642.35; 642.90 through 642.97, inclusive; 646.25; 646.26; 646.30; 652.94 through 652.97, inclusive; 653.00; 688.30; 690.25; 690.30.*			
•	• • • •	•	•	•
	PART 1.—METAL-BEARING ORES AND OTHER METAL-BEARING MATERIALS			
	Part 1 headnotes: 1. * * *			
•	• • • •	•	•	•

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SCHEDULE 6.—METALS AND METAL PRODUCTS—Continued

Item	Articles	Rates of Duty		
		1	Special	2
	6. Until the day on which the prohibition in section 7(a) of the Anti-Apartheid Act of 1986 is terminated, the entry, or withdrawal from warehouse for consumption, of any metal-bearing ore or other metal-bearing material which is provided for in this part and is the product of Namibia is prohibited.			
.	. . . . .	.	.	.

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DISSENTING VIEWS

The mere title of H.R. 4868, the Anti-Apartheid Act of 1986, would suggest that anyone who opposes this legislative effort is a friend of apartheid. In reality, apartheid and racial discrimination are antithetical to all of our views of liberty, justice and equality under law. The question then, is not whether apartheid is right or wrong, but it is how to help bring about a peaceful change in South Africa. It is our opinion that this legislation will not achieve that goal, and ultimately will not be in the best interest of the people of South Africa, or the United States for that matter.

H.R. 4868 was jointly referred to the Ways and Means Committee for consideration of the trade related portions of the legislation. Although the bill specifically calls for an import ban on only four South African products (coal, steel, uranium ore and oxide), language contained in section 2 of the bill would essentially amount to a near total trade embargo. Section 2(a)(1)(B) of H.R. 4868 states that "no U.S. person, directly or through another person . . . make any investment in South Africa." "Investment in South Africa" is defined as "a commitment of funds or other assets . . . to a business or enterprise located in South Africa or owned or controlled by South African nationals, including—a loan or other extension of credit made to such a business enterprise." Since almost all trade is conducted on a letter of credit basis, this has the practical effect of eliminating trade between the U.S. and South Africa. Not only would this be a unilaterally protectionist action that is GATT illegal, but if South Africa elected to respond by banning the export of certain strategic minerals to the U.S., the defense capabilities of our nation would be seriously threatened.

The United States is entirely import dependent on several strategically critical minerals that are located in only two places in the world, South Africa and the Soviet Union. Ever since Soviet leader Leonid Brezhnev announced in 1973 that "our aim is to gain control of the two great treasure houses upon which the West depends—the energy treasure house of the Persian Gulf and the mineral treasure house of Central and Southern Africa," the Soviets have been stepping-up their support for several terrorist groups in their bid to gain control of the region. If the Soviets are successful in their efforts to control these critical minerals upon which the U.S. is now 100% import dependent, our technological capabilities as well as our defense industry will be severely threatened. We will be subject to Soviet economic blackmail and will either have to pay exorbitant prices or be denied access to these minerals entirely.

Positive changes are taking place in South Africa, and they will continue. Destabilizing South Africa with economic sanctions and trade embargoes will not help the plight of the blacks in that country. On the contrary, it will increase unemployment among blacks, lower the living standard, and in general, add to further unrest

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and violence. At the same time, U.S. industries doing business with or in South Africa would be negatively impacted, and the defense capability of this country would be compromised.

A second area of trade restrictions contained in the bill is directed at Namibian natural resources. Since most of Namibia's $12.4 million in exports to the United States qualify as natural resource exports, this would have the practical effect of banning most imports from that economically struggling country. The real question in regards to Namibia, however, is why it has been included in this legislative effort. If the objective, as stated in the bill title, is to end apartheid, there is no reason to include Namibia, since there is no apartheid in Namibia.

In its first year, the Namibian Transitional Government for National Unity has abolished apartheid, moved forward towards total national reconciliation, and labored to remove all remaining vestiges of residual discrimination. The Transitional Government of National Unity provides representation for Namibians of all races and their six major political parties. To punish this government, as this legislation would do, impedes the establishment of an autonomous government in Namibia and strengthens the position of SWAPO, the communist terrorist group that has continually sabotaged the hopes of the Namibian people for a peaceful and democratic transition to complete independence.

In conclusion, although H.R. 4868 would have the net impact of banning almost all imports from South Africa and many from Namibia, there were no hearings held in the Ways and Means Committee to consider the trade related ramifications should this become law. Even though the Administration, in letters from the Secretary of State and the Secretary of Commerce, strongly expressed its opposition to H.R. 4868, they were not given the routine opportunity to present testimony before the Ways and Means Committee. In an effort to meet the Democrat Leaderships' timetable for consideration of H.R. 4868 on the floor of the House of Representatives, the normal legislative process was circumvented and no hearings were held. Thus, not only do we oppose the content of H.R. 4686, but we are also opposed to the manipulation of the legislative process for purely political motives.

PHILIP M. CRANE.

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SUPPLEMENTAL VIEWS BY MR. FRENZEL

Apartheid is antithetical to American values. It is a bad system. There has been no arguement raised in the House in defence of Apartheid in my memory.

It should go without saying, then, that the question posed by HR 4868 is not whether apartheid is good or bad. The question is whether HR 4868 is a good way to accelerate the demise of apartheid in a peaceful way to the benefit of all the people of South Africa.

A large majority of our House believes it is good policy. I regret that I do not agree.

At least 3 departments of the Executive Branch have presented views in opposition to HR 4868. Because of the paucity of hearings, most of this testimony is in letter form.

Secretary of State Shultz, in his letter to Congress, dated June 10, said, "We do not believe it should be our purpose to harm the South African economy; nor do we believe that such action will hasten the end of Apartheid." The Secretary went on to say that he is concerned, as I am, that attempts like HR 4868 will actually have an opposite effect than intended. It is likely to harden positions while we are seeking moderation and negotiation. That would, of course lessen the influence of the U.S. government at a time when our ability to exert pressure for a change is desperately needed.

The Foreign Affaris Committee did not have a hearing on this bill. It presumably read the Secretary's letter and passed the bill.

The Secretary of Commerce Baldrige, also wrote a letter to Congress. He said, "The bill is a blunt, instrument which makes no distinction between those whom we are trying to help and those whom we are trying to pressure toward positive change." The Secretary pointed out that the bill would kill outreach initiatives to South Africa's black business Community made by the U.S. private sector. U.S. firms would be prohibited from entering into joint ventures with black South Africans.

Secretary Baldrige cited examples of computer sales which would be prohibited by the bill. It would ban sales by South Africa's first black computer firm, which is a distributor of IBM products. It would also prohibit continued use of U.S. computers, such as the IBM "Writing to Read" system, to promote black education.

The Ways and Means Committee also had no hearings. It consumed a couple of hours in debate and passed the bill. The Secretary's letter, I believe, did not even become a part of the record.

The Treasury Department, through its Deputy Assistant Secretary for trade and investment policy, actually testified before the House Banking Committee. He said in his statement that the measures would harm U.S. interests, harm the majority non-white popu-

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lation, and "strengthen the extremes and weaken the middle of the political spectrum in all communities."

The Deputy Assistant Secretary concluded his testimony as follows, "We believe the proposed sanctions in HR 4868 would not produce the changes we all seek, but would damage interests we would like to promote and defend. Such sanctions would further disadvantage the black population in South Africa, and have adverse, perhaps significant and long standing, effects on U.S. government and private economic interests, and on our ability to influence events in a positive fashion."

After hearing that, the Banking Committee waived its jurisdiction. That made the score one hearing, one waiver, and two passes in the three Committees involved. The whole process took 48 hours.

That is not quite as quickly as we once put the Redskins on T.V., but it was too quick to provide the answers to many question raised by members of my own Committee, Ways and Means. When a bill moves along that swiftly, important questions do not get asked, and those which are asked do not get answered. Why sanctions are not enforced selectively so as not to fall heavily on the majority population is one of those questions. Others relate to investment, reinvestment financing of various kinds of sales, extraterritoriality etc.

It may be necessary for the Congress to make the statement embodied in HR 4868. Certainly, a large majority of the House believes that to be true. But it is often dangerous to deal in symbols and statements, especially when they are like HR 4868, "blunt instruments" which must be put into effect in the real, practical world.

Once we made a great statement in favor of human rights and free emigration. I supported it willingly. Unfortunately, it did not work. Instead of causing more emigration, it caused less.

I have a feeling that this bill, if enacted, will have that kind of "opposite effect." Despite its powerful and popular momentum, those of us who believe it is an unwise, though well-intended, policy, have the obligation to issue our warnings. I can only hope that the Senate will give HR 4868 closer scrutiny that the House gave it.

BILL FRENZEL.

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